

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

BRIAN KEITH CARRERA,	)	
Institutional ID No. 1498399,	)	
	)	
Plaintiff,	)	
	)	
V.	)	CIVIL ACTION NO.
	)	6:08-CV-032-C
JOE HUNT, <i>et al.</i> ,	)	ECF
	)	
Defendant(s).	)	

**ORDER**

The United States Magistrate Judge entered a Report and Recommendation on October 20, 2008, and Plaintiff filed his objections on November 12, 2008.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendations of the Magistrate Judge as well as the specific objections of the Plaintiff. The Court finds that Plaintiff's objections should be overruled in all things, except that Plaintiff correctly noted that the Magistrate Judge erroneously stated that "there was calcium buildup in his rotator cuff" in item 14 on page 2, when in fact, there was no calcium buildup.<sup>1</sup> Otherwise, the Court accepts and adopts the findings, conclusions, and recommendation of the Magistrate Judge.

It is, therefore, ORDERED:

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<sup>1</sup> The Court attributes this omission to typographical error, and finds that the omission would not have changed the recommendation contained in the Magistrate's report.

1. Plaintiff's claims against all Defendants that he was subjected to cruel and unusual punishment in the form of deliberate indifference to his serious medical needs while confined to the Tom Green County jail are **DISMISSED WITH PREJUDICE AS FRIVOLOUS.**

2. Plaintiff's claims for money damages are **DISMISSED WITH PREJUDICE AS FRIVOLOUS.**

3. Any claims asserted against any of the Defendants in his or her official capacity are **DISMISSED WITH PREJUDICE AS FRIVOLOUS.**

4. Any pending motions are **DENIED.**

Judgment shall be entered accordingly.

This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996). Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

Any pending motions are **DENIED.**

A copy of this order shall be sent by first class mail to all parties appearing *pro se* and to any attorney of record by first class mail or electronic notification.

Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$455.00 pursuant to the PLRA, and he must submit an application to proceed *in forma*

*pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

**SO ORDERED.**

Dated April 21, 2009.



SAM R. CUMMINGS  
UNITED STATES DISTRICT COURT